

ESTTA Tracking number: **ESTTA607868**

Filing date: **06/03/2014**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Notice of Opposition

Notice is hereby given that the following party opposes registration of the indicated application.

Opposer Information

Name	Tyson Refrigerated Processed Meats, Inc.
Granted to Date of previous extension	06/04/2014
Address	2200 Don Tyson Parkway Springdale, AR 72762 UNITED STATES

Correspondence information	Tyson Refrigerated Processed Meats, Inc. 2200 Don Tyson Parkway Springdale, AR 72762 UNITED STATES jenna.johnston@tyson.com, essa.hicks@tyson.com, cliff.dougherty@mcafeetaft.com, teresa.purcell@mcafeetaft.com Phone:405-552-2302
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Applicant Information

Application No	85849875	Publication date	02/04/2014
Opposition Filing Date	06/03/2014	Opposition Period Ends	06/04/2014
Applicant	Aseptia, Inc. 2021 Progress Ct raleigh, NC 27608 UNITED STATES		

Goods/Services Affected by Opposition

Class 029. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Processed foods, namely, processed fruits, processed vegetables, broths, soups, and dairy products excluding ice cream, ice milk and frozen yogurt
Class 040. First Use: 0 First Use In Commerce: 0 All goods and services in the class are opposed, namely: Food processing

Grounds for Opposition

Priority and likelihood of confusion	Trademark Act section 2(d)
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Marks Cited by Opposer as Basis for Opposition

U.S. Registration No.	1554890	Application Date	10/15/1987
Registration Date	09/05/1989	Foreign Priority	NONE

		Date	
Word Mark	WRIGHT		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1964/08/14 First Use In Commerce: 1968/05/14 PORK PRODUCTS, NAMELY, HAM, BACON [, SALT PORK, PORK SKINS AND PORK TRIMMINGS]		

U.S. Registration No.	1545487	Application Date	10/22/1987
Registration Date	06/27/1989	Foreign Priority Date	NONE
Word Mark	WRIGHT BRAND SINCE 1922		
Design Mark			
Description of Mark	NONE		
Goods/Services	Class 029. First use: First Use: 1987/07/01 First Use In Commerce: 1987/07/01 PORK FOOD GOODS		

U.S. Registration No.	4011234	Application Date	06/23/2010
Registration Date	08/16/2011	Foreign Priority Date	NONE
Word Mark	SINCE 1922 WRIGHT BRAND		
Design Mark			
Description of Mark	The mark consists of a shield design with the words "Since 1922" at the top of the shield, the word "Wright" is under "Since 1922" and the word "Brand" is under "Wright". Under the words is a design of four thick vertical lines coming to a point at the bottom of the line and onethick vertical line coming to a point at the top of the line. A rectangular boxwith curved ends is at the bottom of the shield.		

Goods/Services	Class 029. First use: First Use: 2009/03/00 First Use In Commerce: 2009/03/00 Pork
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U.S. Registration No.	4422819	Application Date	07/16/2012
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Registration Date	10/22/2013	Foreign Priority Date	NONE
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Word Mark	SINCE 1922 WRIGHT BRAND
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Design Mark	
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Description of Mark	The mark consists of a shield design with the words "Since 1922" at the top of the shield, the word "Wright" is under "Since 1922" and the word "Brand" is under "Wright". Under the words is a design of four thick vertical lines coming to a point at the bottom of the line and one thick vertical line coming to a point at the top of the line. A rectangular box with curved ends is at the bottom of the shield.
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Goods/Services	Class 029. First use: First Use: 2012/09/29 First Use In Commerce: 2012/09/29 Beef
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Attachments	73691072#TMSN.gif(bytes) 85069766#TMSN.jpeg(bytes) 85678062#TMSN.jpeg(bytes) Wright Opposition.pdf(577989 bytes)
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Certificate of Service

The undersigned hereby certifies that a copy of this paper has been served upon all parties, at their address record by First Class Mail on this date.

Signature	/CCDIII/
Name	Tyson Refrigerated Processed Meats, Inc.
Date	06/03/2014

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

In re Application Serial No. 85/849,875
Filing Date: February 14, 2013
Mark: WRIGHT WAY
Published in the Official Gazette on February 4, 2014

Tyson Refrigerated Processed Meats, Inc.,)	
)	
Opposer,)	
)	
v.)	Opposition No. _____
)	
Aseptia, Inc.,)	
)	
Applicant.)	

Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

NOTICE OF OPPOSITION

Tyson Refrigerated Processed Meats, Inc. (“Tyson”) hereby opposes registration of the mark of United States Application Serial No. 85/849,875 (the “Opposed Application”), which was filed by Aseptia, Inc. (“Applicant”) in International Classes 29 and 40 on February 14, 2013.

Tyson’s grounds for opposition are as follows:

1. Tyson is a Delaware corporation having a principal place of business at 2200 Don Tyson Parkway, Springdale, Arkansas 72762.
2. As listed in the Opposed Application, Applicant is a corporation of North Carolina with an address of 2021 Progress Ct., Raleigh, North Carolina 27608. Based on the records of the U.S. Patent and Trademark Office at the time of filing this Notice of Opposition, Applicant is not represented by an attorney in the application.

3. Applicant seeks to register the mark “WRIGHT WAY” (the “Opposed Mark”) on the Principal Register for processed foods, namely processed fruits, processed vegetables, broths, soups, and dairy products excluding ice cream, ice milk and frozen yogurt in International Class 29 and food processing in International Class 40. The Opposed Application was filed on the basis of Applicant’s bona fide intent to use the mark and published for opposition on February 4, 2014.

4. Tyson is a leading manufacturer and seller of a variety of food products throughout the United States. One of Tyson’s primary brands is “WRIGHT,” which is used to identify meat products, including pork and beef.

5. Tyson and its predecessors in interest have continuously used the trademark “WRIGHT” and various designs and logos including the same in interstate commerce in association with meat since at least as early as August 14, 1964.

6. Tyson is the owner of the following incontestable United States registrations for the mark WRIGHT and logos and designs including the same (collectively referred to as the “WRIGHT Mark”): U.S. Registration No. 1,554,890 (WRIGHT for pork products, namely, ham and bacon); and U.S. Registration No. 1,545,487 (WRIGHT BRAND SINCE 1922 & Design for pork food goods). Tyson also owns U.S. Registration No. 4,011,234 (SINCE 1922 WRIGHT BRAND & Design for pork) and U.S. Registration No. 4,422,819 (SINCE 1922 WRIGHT BRAND & Design for beef). Copies of the above registrations are attached hereto as Exhibits A through D.

7. Tyson has expended a great deal of effort and considerable expense in advertising, promoting, offering for sale and selling its goods under the WRIGHT Mark within the United States. Tyson has been very careful to control the quality of the products sold under

the WRIGHT Mark and has thereby established an excellent reputation and valuable goodwill in association with the mark. The WRIGHT Mark is recognized by consumers and customers as identifying and distinguishing Tyson as the source and origin of the associated goods.

8. The goods identified in the Opposed Application are closely associated with the goods sold by Tyson in association with the WRIGHT Mark and are otherwise highly related to all of the goods covered by Tyson's registrations for the WRIGHT Mark. The goods of both parties are all classified in International Class 29, and normally sold in grocery stores and other retail outlets. The goods are all complementary in that, for example, they are commonly served together. The services identified in the Opposed Application are also closely associated with the goods sold by Tyson in association with the WRIGHT Mark. The Opposed Application contains no geographic restrictions and no restrictions on trade channels.

9. There is no issue as to priority in this case. As stated above, Tyson's rights to the WRIGHT Mark date back to at least as early as August 14, 1964. According to the Opposed Application, Applicant has not yet used the Opposed Mark in commerce.

10. The Opposed Mark so resembles Tyson's WRIGHT Mark as to be likely, when used in connection with processed foods (namely processed fruits, processed vegetables, broths, soups, and dairy products excluding ice cream, ice milk and frozen yogurt) or food processing services to cause confusion, or to cause mistake, or to deceive.

11. The Opposed Mark is similar to the WRIGHT Mark in appearance, sound, connotation and commercial impression. As a result, contemporaneous use of the Opposed Mark and the WRIGHT Mark is likely to cause confusion and lead to deception as to the origin of the goods and services that are associated with the Opposed Mark. Consumers will purchase Applicant's products under the mistaken belief that such products were manufactured by Tyson

or somehow affiliated or associated with Tyson, thereby resulting in significant damage and injury to both Tyson and the consuming public. Moreover, registration of the Opposed Mark would allow Applicant to be unjustly enriched by, and reap the benefit of, the goodwill and reputation that Tyson has developed in association with the WRIGHT Mark.

12. If Applicant is allowed to register the Opposed Mark, it will obtain statutory rights to the mark that will conflict with and substantially degrade Tyson's rights in the WRIGHT Mark and the above-mentioned registrations. Tyson's goodwill and reputation will be jeopardized by Applicant's registration of the Opposed Mark. Poor quality of the goods of Applicant will greatly harm Tyson's reputation and translate to lost sales by Tyson.

WHEREFORE, Tyson prays that the Opposed Application be refused and that this Opposition be sustained and any other and further relief as is deemed just and proper.

Respectfully submitted,



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Attorney for Opposer

CERTIFICATE OF MAILING

I hereby certify that a true and complete copy of the foregoing NOTICE OF OPPOSITION has been served on Applicant by mailing said copy this 3rd day of June 2014, via first class, certified mail, return receipt requested, to:

Aseptia, Inc.
Attn: Michael Drozd
2021 Progress Ct.
Raleigh, North Carolina 27608

I further hereby certify that true and complete copy of the foregoing NOTICE OF OPPOSITION was transmitted electronically to the Commissioner for Trademarks at <http://estta.uspto.gov/filing-type.jsp>

A handwritten signature in black ink, appearing to read "C. C. Dougherty, III". The signature is written in a cursive style with a horizontal line extending from the end.

Clifford C. Dougherty, III

EXHIBIT A

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office **Reg. No. 1,554,890**
Registered Sep. 5, 1989

TRADEMARK PRINCIPAL REGISTER

WRIGHT

WRIGHT BRAND FOODS, INC. (TEXAS COR-
PORATION)
P.O. BOX 1779
VERNON, TX 763841779

FOR: PORK PRODUCTS, NAMELY, HAM,
BACON, SALT FORK, PORK SKINS AND
PORK TRIMMINGS, IN CLASS 29 (U.S. CL. 46).

FIRST USE 8-14-1964; IN COMMERCE
5-14-1968.

OWNER OF U.S. REG. NO. 1,395,957.
SEC. 2(F).

SER. NO. 689,725, FILED 10-15-1987.

ROGER KATZ, EXAMINING ATTORNEY

EXHIBIT B

Int. Cl.: 29

Prior U.S. Cl.: 46

United States Patent and Trademark Office **Reg. No. 1,545,487**
Registered June 27, 1989

TRADEMARK
PRINCIPAL REGISTER



WRIGHT BRAND FOODS, INC. (TEXAS COR-
PORATION)
P.O. BOX 1779
VERNON, TX 763841779

FOR: PORK FOOD GOODS, IN CLASS 29
(U.S. CL. 46).
FIRST USE 7-1-1987; IN COMMERCE
7-1-1987.

NO CLAIM IS MADE TO THE EXCLUSIVE
RIGHT TO USE "BRAND", "SINCE 1922" AND
THE REPRESENTATION OF THE HAM,
APART FROM THE MARK AS SHOWN.

SER. NO. 691,072, FILED 10-22-1987.

ROGER KATZ, EXAMINING ATTORNEY

EXHIBIT C

United States of America
United States Patent and Trademark Office



Reg. No. 4,011,234

Registered Aug. 16, 2011

Int. Cl.: 29

TRADEMARK

PRINCIPAL REGISTER

TYSON REFRIGERATED PROCESSED MEATS, INC. (DELAWARE CORPORATION)
2208 DON TYSON PARKWAY
SPRINGDALE, AR 72762

FOR: PORK, IN CLASS 29 (U.S. CL. 46)

FIRST USE 3-6-2009, IN COMMERCE 3-6-2009

OWNER OF U.S. REG. NOS. 1,545,487 AND 1,554,890.

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SINCE 1922" AND "BRAND",
APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A SHIELD DESIGN WITH THE WORDS "SINCE 1922" AT THE
TOP OF THE SHIELD, THE WORD "WRIGHT" IS UNDER "SINCE 1922" AND THE WORD
"BRAND" IS UNDER "WRIGHT". UNDER THE WORDS IS A DESIGN OF FOUR THICK
VERTICAL LINES COMING TO A POINT AT THE BOTTOM OF THE LINE AND ONE THICK
VERTICAL LINE COMING TO A POINT AT THE TOP OF THE LINE. A RECTANGULAR
BOX WITH CURVED ENDS IS AT THE BOTTOM OF THE SHIELD.

SEC. NO. 65-069,766, FILED 6-23-2010.

TRACY CROSS, EXAMINING ATTORNEY



David J. Kappas

Director of the United States Patent and Trademark Office

EXHIBIT D

United States of America
United States Patent and Trademark Office



Reg. No. 4,422,819

Registered Oct. 22, 2013

Int. Cl.: 29

TRADEMARK

PRINCIPAL REGISTER

TYSON REFRIGERATED PROCESSED MEATS, INC. (DELAWARE CORPORATION)
2200 DON TYSON PARKWAY
SPRINGDALE, AR 72762

FOR: BEEF, IN CLASS 29 (U.S. CL. 46)

FIRST USE 9-29-2012; IN COMMERCE 9-29-2012.

OWNER OF U.S. REG. NOS. 1,545,487, 1,554,860, AND 4,011,234

NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "SINCE 1922" AND "BRAND",
APART FROM THE MARK AS SHOWN.

THE MARK CONSISTS OF A SHIELD DESIGN WITH THE WORDS "SINCE 1922" AT THE
TOP OF THE SHIELD, THE WORD "WRIGHT" IS UNDER "SINCE 1922" AND THE WORD
"BRAND" IS UNDER "WRIGHT". UNDER THE WORDS IS A DESIGN OF FOUR THICK
VERTICAL LINES COMING TO A POINT AT THE BOTTOM OF THE LINE AND ONE THICK
VERTICAL LINE COMING TO A POINT AT THE TOP OF THE LINE. A RECTANGULAR
BOX WITH CURVED ENDS IS AT THE BOTTOM OF THE SHIELD.

SN 85-678,062, FILED 7-16-2012.

KAREN K. BUSH, EXAMINING ATTORNEY



Karen K. Bush
Deputy Director, United States Patent and Trademark Office